

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DARYLE D. McCLENIC, #14007244,

Plaintiff,

-against-

JOHN SHMETTAN, JOSEPH ALBERGO,
SGT. ARNOLD M. ROTHENBERG, and
MICHAEL R. MAFFEI,

Defendants.

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FEUERSTEIN, District Judge:

FILED
CLERK

6/30/2015 3:42 pm

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

ORDER
15-CV-00705(SJF)(SIL)

On February 9, 2015, incarcerated *pro se* plaintiff Daryle D. McClenic (“plaintiff”) filed a complaint pursuant to 42 U.S.C. § 1983 against Nassau County Police Detectives John Shmettan (“Det. Shmettan”) and Joseph L. Albergo (“Det. Albergo”), the Nassau County Police Department (“the Police Department”) and the Nassau County Correctional Center (“the Jail”), accompanied by an application to proceed *in forma pauperis*. By Memorandum & Order dated April 28, 2015, the Court granted plaintiff’s application to proceed *in forma pauperis*; *sua sponte* dismissed plaintiff’s claims against the Police Department and the Jail in their entirety with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) for failure to state a claim for relief; and *sua sponte* dismissed plaintiff’s claims against Det. Shmettan and Det. Albergo, and as construed to be against the County of Nassau (“the County”), with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) for failure to state a claim for relief, unless plaintiff filed an amended complaint re-pleading his claims against Det. Shmettan, Det. Albergo and the County on or before June 1, 2015. On May 15, 2015, plaintiff filed an amended complaint re-pleading his claims against Det. Shmettan and Det. Albergo in accordance with the

April 28, 2015 order and adding Nassau County Police Sgt. Arnold M. Rothenberg (“Sgt. Rothenberg”) and Nassau County Assistant District Attorney Michael R. Maffei (“ADA Maffei”) as additional defendants.¹ Accordingly, the Clerk of the Court shall: (1) issues summonses as to Det. Shmettan, Det. Albergo, Sgt. Rothenberg and ADA Maffei (collectively, “defendants”); (2) forward copies of the summonses, the amended complaint, the April 28, 2015 order, the Notice of Hearing dated June 30, 2015 and this order to the United States Marshal Service for service upon defendants without prepayment of fees; and (3) mail copies of this order and the Notice of Hearing dated June 30, 2015 to plaintiff at his last known address and record such service on the docket.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/
Sandra J. Feuerstein
United States District Judge

Dated: June 30, 2015
Central Islip, New York

¹ Since plaintiff did not re-plead his claims against the County in accordance with the April 28, 2015 order, his claims as construed to be against the County are dismissed in their entirety with prejudice.